

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:15-HC-2287-FL

|                          |   |                          |
|--------------------------|---|--------------------------|
| UNITED STATES OF AMERICA | ) |                          |
|                          | ) |                          |
| Petitioner,              | ) | PROPOSED JOINT           |
|                          | ) | PRE-TRIAL ORDER          |
| v.                       | ) | PURSUANT TO L.R. 16.1(c) |
|                          | ) | E.D.N.C                  |
| BLAKE CHARBONEAU,        | ) |                          |
|                          | ) |                          |
| Respondent.              | ) |                          |

I. STIPULATIONS:

1. All parties are properly before the Court.
2. The Court has jurisdiction of the parties and the subject matter.
3. All parties have been correctly designated.
4. There is no question as to misjoinder or non-joinder of the parties.
5. This action arises under the Adam Walsh Act, Title 18, United States Code, Section 4248 and this Court has original exclusive jurisdiction.
6. Venue of this matter is proper.
7. Copies of all official documents, documents kept in the ordinary course of business, and all production exchanged during discovery in this matter are genuine and authentic.

8. At trial, the parties will submit a Joint Trial Notebook, which will contain the exhibits to which the parties have stipulated to the authenticity and admissibility.
9. Respondent stipulates that he has engaged in or attempted to engage in sexually violent conduct or child molestation within the meaning of 18 U.S.C., sections 4247-4248.

## II. CONTENTIONS:

### A. PETITIONER

#### 1. Facts:

- (a) On December 3, 2015, Respondent Blake Charboneau ("Charboneau") was certified as a sexually dangerous person pursuant to 18 U.S.C. § 4248.
- (b) At the time of his certification, Charboneau was in custody of the Federal Bureau of Prisons at the Federal Correctional Institution in Butner, North Carolina, serving a 36-month term of imprisonment to be followed by a 24-month term supervised release, as a result of Charboneau's imprisonment for violating his supervised release related to Charboneau's supervised release violation for sexual contact with person incapable of consenting. Charboneau's initial conviction arose out of his conviction after a jury trial for engaging in a sexual act by using force, in violation of 18 U.S.C. § 2241(a)(1).
- (c) Charboneau's release date on the above-referenced offense was February 21, 2016.

2. Issues:

- (a) Has Charboneau engaged in or attempted to engage in sexually violent conduct or child molestation?
- (b) Is Charboneau sexually dangerous in that he suffers from a serious mental illness, abnormality or disorder, and as a result of his serious mental illness, abnormality or disorder, would have serious difficulty in refraining from sexually violent conduct or child molestation if released?

B. RESPONDENT

1. Facts:

- (a) On December 9, 2003, Mr. Charboneau pleaded guilty but mentally ill in South Dakota state court to Sexual Contact with a Person Incapable of Consenting. He was sentenced to 10 years of incarceration. As he was on federal supervised release at the time of this offense, he also received a 36-month sentence of incarceration in the BOP for supervised release violation, consecutive to the state sentence. His projected release date from the federal sentence was February 21, 2016, with 24-months of federal supervised release to follow. This sexual offense involved Mr. Charboneau's 25-year-old niece.
- (b) Mr. Charboneau's federal supervised release stemmed from a 1988 conviction after trial by jury of aggravated sexual abuse by force. This sexual offense involved a minor victim.

2. Issues:

- (a) Has Mr. Charboneau engaged in or attempted to engage in sexually violent conduct or child molestation?
- (b) Does Mr. Charboneau presently suffer from a

serious mental illness, abnormality or disorder?

- (c) If so, as a result of the serious mental illness, abnormality or disorder, would Mr. Charboneau have serious difficulty in refraining from sexually violent conduct or child molestation if released from BOP custody?

### III. EXHIBITS

#### A. PETITIONER:

| No. | Description  | Bates Stamp #s | OBJECTION |
|-----|--|----------------|-----------|
| 1   | Certification of a Sexually Dangerous Person.  | 2091-93        |           |
| 2   | CV of Dr. Christopher North.   | N/A            |           |
| 3   | Evaluation for Civil Commitment as Sexually Dangerous Person by Dr. Christopher North.   | 1613-42        |           |
| 4   | CV of Dr. Heather Ross.  | N/A            |           |
| 5   | Forensic Pre-Certification Evaluation Report by Dr. Heather Ross.  | 527-45         |           |
| 6   | CV of Dr. Zinik.   | N/A            |           |
| 7   | Evaluation for Civil Commitment as Sexually Dangerous Person by Dr. Zinik.   | 1643-74        |           |
| 8   | July 8, 2014, Letter from the Charboneau Family regarding Respondent's release.  | 155-56         |           |
| 9   | Judgment in a Criminal Case, <u>US v. Charboneau</u> , 5:02CR50076-01 (for revocation of supervised release), Dated November 23, 2004. | 726-30         |           |

|    |  |         |  |
|----|--|---------|--|
| 10 | Supplemental presentence/adjustment report supervised release violation.   | 8-11    |  |
| 11 | Amended Judgment, <u>State of South Dakota v. Charboneau</u> , File No. 51C03002441AO, Dated January 9, 2004           | 1489-91 |  |
| 12 | Complaint, <u>State of South Dakota v. Charboneau</u> , Dated July 14, 2003.   | 1492    |  |
| 13 | Transcript, <u>State of South Dakota v. Charboneau</u> , Court file No. 03-2441, Dated July 28, 2003.                  | 175-201 |  |
| 14 | Judgment in a Criminal Case, <u>US v. Charboneau</u> , C2-88-54-01, Dated January 4, 1990.                             | 747-50  |  |
| 15 | Judgment and Commitment Pursuant to 18 U.S.C. 4244(d), <u>US v. Charboneau</u> , C2-88-54-01, Dated November 30, 1988. | 767-68  |  |
| 16 | Presentence report, <u>US v. Charboneau</u> , C2-88-54-01, Dictated November 19, 1988.                                 | 140-54  |  |
| 17 | Verdict Sheet, <u>US v. Charboneau</u> , C2-88-54, Dated October 27, 1988.   | 1516    |  |
| 18 | Certificate of Recovery and Request to Discharge from Psychiatric Hospitalization.                                     | 804     |  |
| 19 | Judgment and Commitment Order, <u>United States v. Charboneau</u> , C2-82-15-01, Dated August 13, 1982.                | 2001    |  |
| 20 | Docket Sheet, <u>United States v. Charboneau</u> , C2-82-15-01.  | 2002-03 |  |
| 21 | Deposition of Respondent Blake Charboneau, <u>US v. Charboneau</u> , No. 5:15-HC-2075-FL.                              | N/A     |  |
| 22 | Request for Admission No. 4, <u>US v. Charboneau</u> , No. 5:15-HC-2075-FL.  | N/A     |  |

Petitioner reserves the right to designate and use any exhibits identified by Respondent in this action.

B. RESPONDENT

| No. | Description  | Bates Stamp #s  |  |
|-----|--|-----------------|--|
| 1   | CV of Dr. Joseph Plaud   | RESP_CHAR 18-56 |  |
| 2   | Evaluation and Expert Report of Dr. Joseph Plaud                   | RESP_CHAR 1-17  |  |
| 3   | Deposition of Dr. Gary Zinik, US v. Charboneau, No. 5:15-HC-2287-D | N/A             |  |

Respondent reserves the right to designate and use any exhibits identified by Petitioner in this action.

IV. DESIGNATION OF PLEADINGS AND DISCOVERY MATERIALS

A. PETITIONER

Petitioner designates the entire pleadings and responses and the transcript of the following deposition for purposes of cross-examination: Respondent Blake Charboneau. Petitioner reserves the right to use, as necessary, all portions of these documents, as appropriate, pursuant to the Federal Rules of Evidence and the Local Rules.

B. RESPONDENT

Petitioner designates the entire pleadings and responses and the transcript of the following deposition for purposes of cross-examination: Dr. Gary Zinik. Respondent reserves the right

to use, as necessary, all portions of these documents, as appropriate, pursuant to the Federal Rules of Evidence and the Local Rules.

V. WITNESSES

A. PETITIONER

| Name                        | Address   | Proposed Testimony  |
|-----------------------------|---|---|
| Dr. Christopher North       | PMB #224, 1717 East Vista Chino, Suite A7<br>Palm Springs, CA 92262<br>(760) 325-7299 | Expert Testimony re: Issues (a) and (b) identified by Petitioner                                |
| Dr. Gary Zinik              | 1280 So. Victoria Ave., Suite 230<br>Ventura, CA 93003<br>Phone (805) 650-3327        | Expert Testimony re: Issues (a) and (b) identified by Petitioner;                               |
| Dr. Heather Ross            | Federal Correctional Complex<br>P.O. Box 1000<br>Butner, NC 27509<br>(919) 575-3900   | Expert Testimony re: Issues (a) and (b) identified by Petitioner;                               |
| Respondent Blake Charboneau | Federal Correctional Complex<br>P.O. Box 1000<br>Butner, NC 27509                     | Testimony re: prior offenses and convictions, facts relating to same, and institutional conduct |

Petitioner reserves the right to call any witness listed by Respondent in this Pretrial Order. Petitioner reserves the right to call rebuttal witnesses, as appropriate.

B. Respondent

| Name                           | Address  | Proposed Testimony  |
|--------------------------------|--|---|
| Dr. Joseph Plaud               | 12 Gloucester Street,<br>Number Two<br>Boston, MA 02115-1700         | Expert Testimony<br>re:Issues (a), (b)<br>and (c) as identified<br>by Respondent. |
| Respondent Blake<br>Charboneau | Federal Correctional<br>Complex<br>P.O. Box 1000<br>Butner, NC 27509 | Testimony as to prior<br>offenses, sexual<br>history, and release<br>plan.        |

Respondent reserves the right to call any witness listed by Petitioner in this Pretrial Order. Respondent reserves the right to call rebuttal witnesses, as appropriate.

The parties reserve the right to amend the pre-trial order to include additional exhibits, additional witnesses (excepting rebuttal witnesses), raise objections, or correct any defect in the form of the pre-trial order. Any amended pre-trial order must be filed by August 9, 2016.

TRIAL TIME ESTIMATE: 2-3 days.

FOR PETITIONER:

JOHNS STUART BRUCE  
Acting United States Attorney

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NC Bar No. 32985  
LR 57.1 Counsel, Appointed

APPROVED BY:

\_\_\_\_\_  
JAMES C. DEVER, III  
Chief United States District Judge

\_\_\_\_\_, 2016.